An Account of the Proceedings at *Westminster-Hall*, on the 29th, and 30th. of *June*, 1688. Relating to the *Tryal* and *Discharge* of the Archbishop of *Canterbury*, the Bishop of S. *Asaph*, Bishop of *Chichester*, Bishop of *Ely*, Bishop of *Bath* and *Wells*, Bishop of *Peterborough*, and the Bishop of *Bristol*.

THE Indictment when read, was very much excepted against, on the account of its Form, in that it did not mention all the Petition they were Indicted for; there was not either the Title expressing to whom it was directed (*Viz. To the Most Excellent Majesty*, was omitted,) and the afterwards (*We therefore Pray*, &c.) was not there; being closely pursued by the Bishops Council, seemed to vindicate the whole business. Then it was not and could be proved by the Kings Council, that the Bishops presented the Petition to the King. They had in the Court the Seal, and subpœna'd some of the Arch-Bishops and Bishops Chaplains, Servants, and others, to prove their hands, but was not done very clearly upon most of them; all the proof of the Kings Council had for the presenting the Petition to His Majesty, did not directly prove it upon them: The most it amounted to, was either that the King told them he had it from the said Bishops; or, that my Lord Chancellor did ask them, if it were theirs (when they were summon'd before the King and Council,) and that they then express'd an averseness to own it; saying, before the King, that if His Majesty did insist on it, and that it should not be improved to their disadvantage, or produc'd in evidence against them, that they would be plain, and leave it to His Majesty. Upon this the Bishops Council had some reflexions which my Lord Chief Justice told them he must not hear. But this did not amount to a full proof of the point. Then the Bishops Council did greatly insist upon the Indictment being laid in a wrong County; for it was proved upon Oath, that the Arch-Bishop was not out of his House for a very considerable time before he was summon'd to the King in Council. Now what was alledg'd against them, was done at *Lambeth*, and therefore in *Surrey* the Indictment ought to have been laid, which seem'd much to affect them. After this, the Bishops Council objected against the term *Publishing*; whereas what was said to be done by them, was in the privatest way that could be, and given only to the King, which caus'd a long debate between both Parties, of things requisite to denominate a *Publication*; all did still appear favourable on the Bishops side: and here things were going to a conclusion, and the Judg was entered upon summing up the Evidence; but Mr. *Finch*, (one of the Bishops Council) interrupted my Lord Chief Justice, saying, there was one material Evidence remaining: Whereupon, my Lord desisted, tho with some seeming dissatisfaction to the rest of the Bishops Council: For the Judg was going on very favourably for the Bishops Cause; some of the Bishops importun'd my Lord Chief Justice to proceed, but he would not: And so it brought on more discourse about the former subjects, and occasion'd the sending for my Lord President, who came into Court after it had stayed an hour for him: The evidence that he gave upon Oath, could not fully prove the delivery of the Petition to the King by the Bishops. When before, for the proof of this, the Solicitor did very greatly importune some Witness for the King, (that had upon Oath deliver'd, what they knew about this matter, which was as aforesaid) by putting to them very intricate questions; my Lord Chief Justice reproved him, saying, it was not to be suffer'd; adding, that if he went on thus, he would let the Bishops Council loose on him.

After these things, my L. C. J. ask'd the Bishops Council, what else they had to plead; whereupon they proceeded to that part of the Indictment that call'd the Bishops Petition *A Scandalous Seditious Libel*, &c. which occasion'd very great, solemn and most pleasing debates, For, hereupon they entered into and discuss'd the lawfulness of the Declaration and the Dispensing Power, which were harang'd by every one of the Bishops Council in most brisk, home and admirable Speeches, for the space of three hours, shewing the Declaration to be against and contrary to Law, which no Power could dispence with or abrogate, but that which made it, (*viz.* a Parliament) and that the Ecclesiastical Laws had the same foundation as the Civil, and could be therefore no more dispens'd with. That the Declaration did evacuate the Laws for Sabbath-breaking, Fornication, &c. and moreover the Reins to the most Extravagant Sects and licentious Practices; and that all Laws might be dispens'd with, as well as some: That the Bishops were sworn to maintain the Ecclesiastical Laws; and in representing the Case thus to His Majesty they had done both as the Law directed them, and according to *Prudence*, *Honour*, and *Conscience*. There were hereupon publickly read several Acts of Parliament, Records of the Tower, and Parliament Records; among which, one Act of Parliament was observeable; that gave the King Power to dispence with a Law for a stated time: So that what Dispensing Power he ever had, was both given and bounded by Parliament. From what they produc'd out of the Parliament Records and otherwise, they greatly confirm'd what was said in the Petition, of the Dispensing Power, having been often declared illegal in Parliament, and particularly in the years 62, and 72, and in the beginning of His Majesties Reign, which was in 85, when the Parliament declar'd the Popish Officers could not be dispens'd with, but that is was contrary to Law to do so; tho they were willing by Act of Parliament to indemnifie such as His Majesty should nominate, &c. And they shew'd how the like Dispensing Power upon the same occasion was accounted illegal in 62, and 72, both by Parliament and the King himself, who offered the Seal to be tore off, and gave the testimony of his disowning such a Dispensing Power. To which the Sollicitors chief Answer was, that the King then lack'd Money, and that such Acts as aforesaid (whatever they might say) did confirm, not give the King's Dispensing Power. In short, the Bishops Council behav'd themselves in this weighty matter with a great deal of gallantry and plainness, now ise inferior to most mens expectations and desires. The chief of the managers for the King, was the Sollicitor *Wi. Williams*, who as was apprehended, did no great wonders for invalidating the foregoing Arguments. He was very hot and earnest (if not passionate) in proving it a

Libel; saying, It would be so, tho it were done by them to redress a certain grievance: Whereupon, my L. C. J. asking what course then they should take, or what they should do in such circumstances; he answered, *Acquiesce.* (which occasion'd a very great Hiss over the Court) He added farther to prove it Libellous; the insinuating Expressions of gaining the Populace, by saying, "It was not for "want of due tenderness to Dissenters, in relation to whom, "we are willing to come to such a temper, as shall be thought "fit, when that matter shall be consider'd and settled in "Parliament and Convocation.] In Convocation, said he, what's the meaning of that? But here my L. C. J. gave him a check, and restrain'd what he seem'd greatly dispos'd to vent against it. There was not very much said by the rest of the Kings Counsel, at least, nothing more considerable than his. The King's Attorny General was pretty moderate, Sir *Barth. Shores* spoke a little, but was presently silenc'd, (in the vacancy of stay for my Lord President, my L. C. J. said to Sir *Barth. Shores*, Now Sir *Bartholomew*, we have time to hear your Speeches) Serjeant *Baldock*'s Argument against the Bishops, was chiefly upon their refusing, the King requiring such a slender matter so easily to be done; for they were not enjoyn'd to read, but only to send about and disperse it; Yet this they would not do. It concluded with the Kings Council.

Then my Lord Chief Justice summing up the business, was favourable to the Bishops in the former part of the Tryal, and could not say the matter of Fact was fully proved upon them, but was inclin'd to make the Petition a Libel; because of its accusing the King of Flaws in Government. He said but little to oppose what had been brought by the Bishops Council against the Declaration and Dispensing Power. After him spoke Judg *Holloway*, and very much in the Bishops behalf, giving it as his judgment, that it could not be a Libel, being done from a conviction of Conscience by such Persons in such an humble modest manner. Then Judg *Powel* spoke to the same effect, giving it as his opinion, that it could not be a Libel, being the only way to redress themselves: He had also some smart expressions to confirm what the Bishops Council had urged against the Declaration and Dispensing Power: So that Judg *Powell* gave his opinion also in favour of the Bishops. Then Judg *Allibon* standing up, professed he would not meddle with the Dispensing Power (tho it had been so much canvass'd and pleaded against) but would only speak to the business of the Paper being a Libel; and he did accordingly, urging it to be so, not barely because it was a Petition: For, said he, Any one under grievance may Petition His Majesty, but not about affairs of Government, for that would tend to very bad consequences, and promote Discontents or worse in the Nation. Nor (as he added) can the pretended fairness, as to the manner of it, be an excuse; for the more it hath that way, so much the worse; and so concluded it in his sense a Libel. But urging a Precedent to confirm what he had said, he was partly mistaken in it, as Judg *Powell* and the Bishops Council shew'd him, and he himself acknowledged.

Then the Court broke up, the Jury went together, and the Bishops with all the privacy they could, to their respective Abodes; but wherever the People met with them, they huzza'd and humm'd them in a great abundance. There was a prodigious full Court and Hall, a very great many of the Peers and Nobility present, and also the Bishop of *Chester*, of whom they took no kind of notice: The Bishop of *Rochester* did not meet with much better regard.

The Jury sate up all night, tho they were very soon unanimous in their Verdict, which they prudently resolved to give in open Court; and accordingly, next day about Nine or Ten they brought them in

Not Guilty.

The Names of the Lord Bishops Counsellors.

Sir *Francis Pemberton.*
Sir *Creswell Levins.*
Sir *Robert Sawyer.*
Mr. *Finch.*
Mr. *Pollixfin.*
Mr. *Treby.*
Mr. *Summers.*

The Names of the JURY Sworn.

Sir *Roger Langly* of *Westminster.*
Sir *William Hill* of *Tedington.*
Robert Jennings of *Hayes*, Esquire.
Thomas Harriot of *Islington*, Esquire.
Jeoffry Nightingale of *S. Giles Cripplegate*, Esq;
William Withers of the same, Esquire.
William Avery of *Enfield*, Esquire.
Thomas Austin of *South-Myms*, Esquire.
Nicholas Grice of *Neston*, Esquire.
Michael Arnold of *Westminster*, Esquire.
Thomas Done of *S. Giles in the Fields*, Esquire.
Richard Shoreditch of *Ickenham*, Esquire.

FINIS.